

REMARKS

By the present amendment, claims 1-3 are pending in the application.

Restriction Requirement

Applicants hereby affirm the election, without traverse, of the claims of Group I, i.e., claims 1-3 for further prosecution in this application. The election was made without traverse because this application was granted special status.

By the present amendment, non-elected claims 4, 5 and 8-11 are canceled without prejudice to the filing of divisional application(s) directed to non-elected inventions.

Non Statutory Double Patenting

Claim 3 was provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Application No. 10/255,349.

This provisional rejection of claim 3 under the judicially created doctrine of obviousness-type double patenting is respectfully traversed.

Application No. 10/255,349 corresponds to U.S. Patent Application Publication No. 2003/0121,576 Al. A copy of the Patent Application Publication was not enclosed with the Office Action. A copy of U.S. Patent Application Publication No. 2003/0121,576 Al is attached hereto for the convenience of the Examiner.

No Common Assignee or Inventor

The present application is assigned to Nippon Steel Corporation, Tokyo, Japan. The assignment is recorded in the United States Patent and Trademark Office at Reel 012858 Frame 0769 (3 pages).

Page 1 of U.S. Patent Publication No. 2003/0121576 Al identifies at Item (73) that the assignee of U.S. Patent Application No. 10/255,349 is NKK CORPORATION, Tokyo, Japan.

The assignee of the present application, Nippon Steel Corporation, advises that Nippon Steel Corporation is not the assignee of U.S. Patent Application No. 10/255,349.

Therefore, the present application and U.S. Patent Application No. 10/255,349 are not commonly assigned.

From a review of the Inventors' Declaration of the present application and page 1 of U.S. Patent Publication No. 2003/0121576 at Item (75), it can be readily ascertained that the inventors of the present application and the inventors of U.S. Patent Application No. 10/255,349 are different.

Therefore, the present application and U.S. Patent Application No. 10/255,349 have no common inventor.

Non Statutory Double Patenting Traversed

The only knowledge the applicants of the present application have of the claims 1-8 of Application No. 10/255,349 are published claims 1-8 of U.S. Patent Publication No. 2003/0121576 Al.

A review of independent claims 1 and 2 of U.S. Patent Publication No. 2003/0121576 discloses that the steel

sheet of claims 1-8 of Application No. 10/255,349 require 0.10 to 0.37% C by mass.

Claim 3 of the present application requires not more than 0.0018% carbon by mass.

Therefore there is a very great difference between the maximum carbon content (0.0018% C) of claim 3 of the present application and the minimum carbon content (0.10% C) of claims 1-8 of Application No. 10/255,349.

The carbon content of claim 3 of the present application is clearly much less than the carbon content of claims 1-8 of Application No. 10/255,349.

It is therefore submitted that there is no obviousness type double patenting of claim 3 of the present application over claims 1-8 of Application No. 10/255,349.

In view of the foregoing, it is respectfully requested that the rejection of claim 3 under the judicially created doctrine of obviousness type double patenting be withdrawn.

It is also pointed out that the present application is a 35 U.S.C. §371 of PCT/JP01/05420 filed June 25, 2001 which claims priority under 35 U.S.C. §119 from Japanese Patent Application No. 2000-190227 filed June 23, 2000.

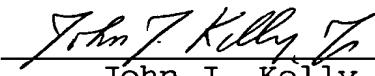
CONCLUSION

It is submitted that in view of the present amendment and foregoing remarks, the application is now in condition for allowance. It is therefore respectfully requested that the application, as amended, be allowed and passed to issue.

Respectfully submitted,

KENYON & KENYON

By:


John J. Kelly, Jr.
Reg. No. 29,182

KENYON & KENYON
One Broadway
New York, New York 10004
(212) 425-7200